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Jay M. Sanders, Patent Attorney

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1653  
Applicants : Kenneth E. Narva, Donald J. Merlo  
Serial No. : 10/698,096  
Conf. No. : 7813  
Filed : October 31, 2003  
For : Polynucleotides, Pesticidal Proteins, and Novel Methods of Using Them

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with 37 CFR §1.97 and §1.98, Applicants would like to bring to the attention of the Examiner the references listed on the attached Forms PTO/SB/08A and PTO/SB/08B.

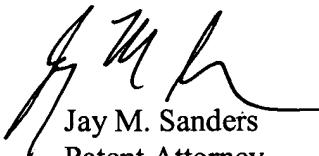
Pursuant to 37 CFR §1.98(d), copies of the references cited on the attached Forms PTO/SB/08A and PTO/SB/08B are not provided herewith because copies of these references were submitted to the Office in prior U.S. Patent Application Serial No. 09/850,351 (filed May 7, 2001; now U.S. Patent No. 6,656,908). Under 35 USC §120, the subject application (Serial No. 10/698,096) relies upon Serial No. 09/850,351 for an earlier filing date.

It is respectfully requested that the references listed on the attached Forms PTO/SB/08A and PTO/SB/08B be considered in the examination of the subject application and that their consideration be made of record.

INFORMATION DISCLOSURE  
STATEMENT  
Examining Group 1653  
Docket No. MA-708CDC1  
Serial No. 10/698,096  
Confirmation No. 7813

Applicants respectfully assert that the substantive provisions of 37 CFR §§1.97 and 1.98 are met by the foregoing statements. Though no fees are believed to be required for this paper, the Patent Office is hereby authorized to charge any fees required by this paper to Deposit Account No. 19-0065.

Respectfully submitted,



Jay M. Sanders

Patent Attorney

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JMS/ehm

Attachment: Forms PTO/SB/08A and PTO/SB/08B



PTO/SB/08A (08-03)

Approved for use through 07/31/2006. OMB 0651-0031  
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Substitute for form 1449/PTO

## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1

of 4

**Complete if Known**

Application Number	10/698,096
Filing Date	October 31, 2003
First Named Inventor	Kenneth E. Narva
Art Unit	1653
Examiner Name	

Attorney Docket Number MA-708CDC1

**U. S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
1	US- 4,448,885		05-15-1984	Schnepf et al.	(please review all)
2	US- 4,467,038		08-21-1984	Schnepf et al.	(please review all)
3	US- 4,797,276		01-10-1989	Herrnstadt et al.	(please review all)
4	US- 4,853,331		08-01-1989	Herrnstadt et al.	(please review all)
5	US- 4,918,006		04-17-1990	Ellar et al.	(please review all)
6	US- 4,948,734		08-14-1990	Edwards et al.	(please review all)
7	US- 4,990,332		02-05-1991	Payne et al.	(please review all)
8	US- 5,039,523		08-13-1991	Payne et al.	(please review all)
9	US- 5,093,120		03-03-1992	Edwards et al.	(please review all)
10	US- 5,126,133		06-30-1992	Payne et al.	(please review all)
11	US- 5,151,363		09-29-1992	Payne	(please review all)
12	US- 5,164,180		11-17-1992	Payne et al.	(please review all)
13	US- 5,169,629		12-08-1992	Payne et al.	(please review all)
14	US- 5,204,237		04-20-1993	Gaertner et al.	(please review all)
15	US- 5,236,843		08-17-1993	Narva et al.	(please review all)
16	US- 5,262,399		11-16-1993	Hickle et al.	(please review all)
17	US- 5,270,448		12-14-1993	Payne	(please review all)
18	US- 5,281,530		01-25-1994	Sick et al.	(please review all)
19	US- 5,322,932		06-21-1994	Narva et al.	(please review all)

**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)				
20	EP 0 359 472		03-21-1990	Adang et al.	pls review all	
21	WO 94/04684		03-03-1994	Payne et al.	pls review all	
22	WO 94/05771		03-17-1994	Lambert et al.	pls review all	
23	WO 94/21795		09-29-1994	Warren et al.	pls review all	
24	WO 94/24264		10-27-1994	Lambert et al.	pls review all	
25	WO 96/05314		02-22-1996	Payne et al.	pls review all	

Examiner Signature	Date Considered
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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

*(Use as many sheets as necessary)*

Sheet 2 of 4

**Complete if Known**

Application Number	10/698,096
Filing Date	October 31, 2003
First Named Inventor	Kenneth E. Narva
Art Unit	1653
Examiner Name	
Attorney Docket Number	MA-708CDC1

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		Number-Kind Code <sup>2</sup> ( <i>if known</i> )			
26	US- 5,350,577	09-27-1994	Payne	(please review all)	
27	US- 5,426,049	06-20-1995	Sick et al.	(please review all)	
28	US- 5,439,881	08-08-1995	Narva et al.	(please review all)	
29	US- 5,667,993	09-16-1997	Feitelson et al.	(please review all)	
30	US- 5,670,365	09-23-1997	Feitelson	(please review all)	
31	US- 5,770,696	06-23-1998	Warren et al.	(please review all)	
32	US- 5,840,868	11-24-1998	Warren et al.	(please review all)	
33	US- 5,849,870	12-15-1998	Warren et al.	(please review all)	
34	US- 5,866,326	02-02-1999	Warren et al.	(please review all)	
35	US- 5,872,212	02-16-1999	Warren et al.	(please review all)	
36	US- 5,877,012	03-02-1999	Estruch et al.	(please review all)	
37	US- 5,888,801	03-30-1999	Warren et al.	(please review all)	
38	US- 5,889,174	03-30-1999	Warren et al.	(please review all)	
	US-				

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		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> ( <i>if known</i> )				
39	WO 96/10083		04-04-1996	Warren et al.	pls review all	
40	WO 98/18932		05-07-1998	Feitelson et al	pls review all	

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				<b>Filing Date</b>	October 31, 2003
				<b>First Named Inventor</b>	Kenneth E. Narva
				<b>Art Unit</b>	1653
				<b>Examiner Name</b>	
Sheet	3	of	4	Attorney Docket Number	MA-708CDC1

<b>NON PATENT LITERATURE DOCUMENTS</b>				
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.		T <sup>2</sup>
	41	ASANO, Shoji et al., "A Unique Activity in Bacillus thuringiensis Growth Medium," Appl. Entomol. Zool., 1994, pp. 39-45, vol. 29(1).		
	42	BEEGLE, C.C., "Use of Entomogenous Bacteria in Agroecosystems," Developments in Industrial Microbiology, 1978, pp. 97-104, vol. 20.		
	43	CAROZZI, N.B. et al., "Prediction of Insecticidal Activity of Bacillus thuringiensis Strains by Polymerase...," Appl. & Environ. Microbio., 1991, pp. 3057-3061, vol. 57(11).		
	44	COUCH, T.L., "Mosquito Pathogenicity of Bacillus thuringiensis var. israelensis," Developments in Industrial Microbiology, 1980, pp. 61-76, vol. 22.		
	45	ESTRUCH, J.J. et al., "Vip3A, A Novel Bacillus thuringiensis Vegetative Insecticidal Protein with a Wide Spectrum...," Proc. Natl. Acad. Sci. USA, 1996, pp. 5389-5394, vol. 93		
	46	FEITELSON, J.S. et al., "Bacillus thuringiensis: Insects and Beyond," Bio/Technology, 1992, pp. 271-275, vol. 10.		
	47	GAERTNER, F.H. and Leo Kim, "Current Applied Recombinant DNA Projects," TIBTECH, 1988, pgs. 54-57, vol. 6(4).		
	48	GAERTNER, F.H., "Cellular Delivery Systems for..." Controlled Delivery of Crop Protection Agents (R.M. Wilkins ed.) 1989, p. 245-255, Taylor and Francis, New York and London		
	49	GLEAVE, A.P. et al., "Identification of an Insecticidal Crystal Protein from Bacillus thuringiensis DSIR517...," Journal of General Microbiology, 1992, pgs. 55-62, vol. 138.		
	50	HOFTE, H. and H.R. Whiteley, "Insecticidal Crystal Proteins of Bacillus thuringiensis," Microbiological Reviews, 1989, pgs. 242-255, vol. 53(2).		

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	51	KRIEG, V.A. et al., "Bacillus thuringiensis var. tenebrionis, a new pathotype effective against larvae of Coleoptera," Z. Ang. Ent., 1983, pp. 500-508, vol. 96, Abstract.			
	52	LAMBERT, B. et al., "A Bacillus thuringiensis Insecticidal Crystal Protein with a High Activity against Members...", Appl. & Environ. Microbiol., 1996, pp. 80-86, vol 62(1).			
	53	LI, Jade, "Bacterial Toxins," Current Opinion in Structural Biology, 1992, pp. 545-556, vol. 2.			
	54	SCHNEPF, H.E. and H.R. Whiteley, "Cloning and Expression of the Bacillus thuringiensis Crystal Protein Gene in...", Proc. Natl. Acad. Sci. USA, 1981, pp. 2893-2897, vol. 78(5)			
	55	SHEVELEV, A.B. et al., "Primary Structure of cryX**, the Novel Delta-endotoxin-related Gene from Bacillus thuringiensis spp. galleriae," FEBS, 1993, pgs. 79-82, vol. 336(1).			
	56	SMULEVITCH, S.V. et al., "Nucleotide Sequence of a Novel -Endotoxin Gene crylg of Bacillus thuringiensis ssp. galleriae," FEBS, 1991, pgs. 25-28, vol. 293(1-2).			

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